

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Flores & Mihevc, LLC,

Case No.: 11-1255 JRT/FLN

Plaintiff,

Jury Trial Demanded

vs.

COMPLAINT

Semper Development, Ltd.,

Defendant.

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CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MN

Flores & Mihevc, LLC ("Flores & Mihevc"), for its complaint against Defendant Semper Development, Ltd. ("Semper Development"), states and alleges:

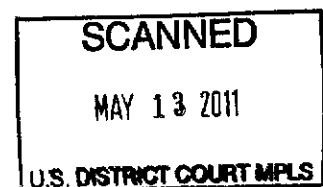
PARTIES, JURISDICTION, AND VENUE

1. Flores & Mihevc is a limited liability company organized and existing under the laws of the State of Illinois, with a principal place of business located at 707 Lake Cook Rd., Suite 220, Deerfield, Illinois 60015.

2. Semper Development is a corporation organized and existing under the laws of the State of Minnesota, with a registered address of 80 South Eighth Street, Suite 1275, Minneapolis, Minnesota 55402.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because: 1) the amount in controversy exceeds \$75,000.00; and 2) this civil action is between citizens of different States.

4. Venue in this Court is appropriate pursuant to 28 U.S.C. § 1391, because Semper Development is a Minnesota resident.



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FACTS

5. Flores & Mihevc is an Illinois law firm that serves the legal needs of business clients, primarily in the areas of commercial real estate, corporate and commercial transactions, banking law, and estate planning and probate.

6. Yvette Flores and Chad Mihevc are the members of Flores & Mihevc and were formerly two out of three of the members of the law firm formerly known as Grobart, Flores & Mihevc, LLC, an Illinois limited liability company ("GFM").

7. Semper Development is a development company and, upon information and belief, its services include the development of Walgreen drugstores throughout the Midwest.

8. On February 14, 2008, Semper Development retained GFM to provide legal services pursuant to an Engagement Letter dated February 13, 2008 (the "Agreement").

9. GFM performed legal services on behalf of Semper Development from February 14, 2008 through March 31, 2010 and Flores & Mihevc performed legal services on behalf of Semper Development from April 1, 2010 through December 31, 2010 (collectively, the "Legal Work").

10. Pursuant to the terms of the Agreement, Semper Development specifically agreed to the following:

- a. To pay fees and disbursements within 30 days of receiving billing statements from the firm;
- b. To pay interest on any invoiced fees that remain unpaid for more than 60 days at the rate of 12% per annum from the date of invoice, until paid in full;

- c. To pay for the firm's costs, fees, and expenses, including attorneys' fees, incurred in collecting all amounts due under the Agreement, and/or in enforcing the Agreement.

11. Between February 14, 2008 and March 31, 2010, GFM performed Legal Work for Semper Development pursuant to the Agreement. GFM invoiced a total of \$202,975.30 to Semper Development. In turn, Semper Development paid only \$71,670.30.

12. On April 7, 2010, GFM was voluntarily dissolved.

13. In conjunction with the dissolution of GFM, and by agreement of GFM's members and Semper Development, Flores & Mihevc retained the client relationship with Semper Development. By agreement of the members of GFM: (a) Flores & Mihevc is responsible and authorized to collect unpaid invoices GFM had billed to Semper Development; and (b) all payments received from Semper Development after March 31, 2010 would be first applied to satisfying the outstanding invoices of GFM.

14. Following dissolution of GFM, Semper Development made the following payments to Flores & Mihevc: \$25,000.00 on August 23, 2010; \$25,000.00 on September 16, 2010; and \$50,000.00 on December 16, 2010. Flores & Mihevc applied such payments to the outstanding invoices of GFM. The payments left a total of \$31,305.09 unpaid for work performed during GFM's existence.

15. Following the dissolution of GFM, Flores & Mihevc continued to provide Legal Work to Semper Development from April 1, 2010 to December 31, 2010, and

invoiced a total of \$103,737.27 to Semper Development through April 13, 2011 for this Legal Work, none of which has been paid.

16. Accordingly, Semper Development's receivable with Flores & Mihevc totals \$31,305.09 applicable to GFM and \$103,737.27 applicable to Flores & Mihevc, for a total amount of \$135,042.36 (plus accrued interest and attorneys' fees) as of the date this action was commenced.

17. Despite Flores & Mihevc's compliance with the terms of the Agreement and the provision of Legal Work to Semper Development, Semper Development has failed to pay all amounts properly invoiced and due.

COUNT I
Breach of Contract

18. Flores & Mihevc restates and re-alleges the foregoing paragraphs as though fully set forth herein.

19. Semper Development breached its contract with Flores & Mihevc by, *inter alia*, the conduct set forth, *supra*.

20. As a direct and proximate cause of Semper Development's breach of contract, Flores & Mihevc has been damaged in the amount of \$135,042.36, plus interest accruing thereon at the rate of 12% per annum, attorneys' fees, costs, and disbursements.

COUNT II
Account Stated

21. Flores & Mihevc restates and re-alleges the foregoing paragraphs as though fully set forth herein.

22. Flores & Mihevc sent regular billing statements and/or demands for payment to Semper Development indicating the amounts owed for the Legal Work.

23. Semper Development never objected to such billing statements, nor objected to or questioned the charges.

24. Semper Development retained Flores & Mihevc's billing statements for more than a reasonable period of time to raise an objection with respect to the form and substance thereof or the charges therein. Therefore, an account has been stated between Flores & Mihevc and Semper Development.

25. Flores & Mihevc is entitled to judgment against Semper Development in the amount of \$135,042.36, plus accrued interest through the date of judgment, attorneys' fees, costs, and disbursements, for the Legal Work provided to Semper Development pursuant to the Agreement.

WHEREFORE, Flores & Mihevc requests an order of the Court:

1. Entering judgment against Defendant Semper Development in the amount of \$135,042.36, plus accrued interest through the date of judgment at the rate of 12% per annum;

2. Awarding Flores & Mihevc its costs, disbursements, and reasonable attorneys' fees; and

3. For such other and further relief as the Court deems just and equitable.

HELLMUTH & JOHNSON, PLLC

Dated: May 13, 2011

By


John J. Steffenhagen, ID #195947

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ATTORNEYS FOR PLAINTIFF